



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

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| PUBLIC MEETING NOTICE: | BOARD OF DENTISTRY & DENTAL HYGIENE |
| DATE AND TIME: | Thursday, August 20, 2015 at 3:00 p.m. |
| PLACE: | Cannon Building, Second-Floor Conference Room A 861 Silver Lake Boulevard, Dover, DE 19904 |
| APPROVED: | October 15, 2015 |

MEMBERS PRESENT

Brian McAllister, DMD, Professional Member, President
Thomas A. Mercer, DDS, Professional Member, Secretary
Lucinda Bunting, DMD, Professional Member
Sharon Welsh, DDS, Professional Member
Bruce Matthews, DDS, Professional Member
Carol Argo, RDH, Professional Hygiene Member
June Ewing, Public Member
Nathaniel Gibbs, Public Member
Mary Trinkle, RDH, Hygiene Advisory Member
Buffy Parker, RDH, Hygiene Advisory Member
Rumiko Nelson, RDH, Hygiene Advisory Member
Rozi Berberian, Public Member

MEMBERS ABSENT

DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT

Flora Peer, Administrative Specialist II
Jennifer Singh, Deputy Attorney General

PUBLIC PRESENT

Oliver Cleary, DAG
Marcy Borofsky
David Tetrault, DPR Staff
John Lenz, DDS
Venetia A. Dover
Junior Dover

CALL TO ORDER

Dr. McAllister called the meeting to order at 3:11p.m.

DISCIPLINARY HEARING

Junior Dover
See attached

REVIEW AND APPROVAL OF MEETING MINUTES

The Board reviewed the minutes of the June 18, 2015 Board meeting. Mr. Gibbs made a motion, seconded by Ms. Parker, to approve the minutes as presented. By unanimous vote, the motion carried.

UNFINISHED BUSINESS

Review Definition of Nonprofit

Ms. Singh stated that the definition of Nonprofit is whether or not an entity qualifies under federal tax law. Dr. McAllister stated that the Board could review and approve dental entities that claim to be non profit. The matter was tabled until the October meeting.

Review of Exam Packets

The Board discussed changes to the exam packets. Ms. Peer stated that she would have the changes completed for the Board to review in October.

NEW BUSINESS

RATIFICATION OF LICENSES/PERMITS ISSUED BY DPR SINCE LAST BOARD MEETING

Dentists

Ms. Argo made a motion, seconded by Dr. Mercer, to ratify the dental licensure of:

| | | |
|----------------|---------------|-----------------|
| Tarlan Arshian | Nancy Panko | Edward Bayley |
| Eric Chai | Joshua Bryan | Nitchel Bastien |
| Candace Gaull | Kaitlyn Lotti | James Tigani |
| Deepali Gham | | |

By unanimous vote, the motion carried

Dental Hygienists

Ms. Argo made a motion, seconded by Ms. Parker, to ratify the dental hygiene licensure of:

| | | |
|-----------------|----------------|------------------|
| Jaryn Bermudez | Amy Gilbert | Yuan Le |
| Sara Szypiotko | Hannah Mumford | Heather Thomas |
| Jiyoung Bae | Ashley Melvin | Christina Potter |
| Brooke Reed | Sarah Rolison | Shaina Selva |
| Breana Boothman | Annie Hays | Andrea Crumlish |
| Kenneth Maiello | Judy Ayers | Gloriana Diaz |

Natalie Bakomenko

Carolyn Nguyen

By unanimous vote, the motion carried.

Restricted Permit I – None

Restricted Permit II

Ms. Argo made a motion, seconded by Dr. Mercer, to ratify the restricted permit II licensure of:

| | | |
|---------------|--------------|-----------------|
| Candace Gaull | Joshua Bryan | Nitchel Bastien |
| Edward Bayley | Eric Chai | |

By unanimous vote, the motion carried.

Unrestricted Permit – None

Dentist - Limited Resident – None

Academic License – None

Review of Application

Mimi Yeung

Dr. McAllister stated that he reviewed Mimi Yeung's application. Dr. Yeung answered yes to 22 but didn't submit information. Information was requested. Ms. Singh summarized the malpractice suite and stated that it is pending. The Board requested information about the underlying reason for the suite.

INFORMAL DISCUSSION

Linda Jabril - Taylor

Ms. Jabril-Taylor thanked the Board for their time. Ms. Jabril -Taylor asked the Board questions about her exam results. The examiners explained her results.

REVIEW OF HEARING OFFICER RECOMMENDATIONS

None

CONTINUING EDUCATION APPROVAL

None

COMPLAINT UPDATES

New Complaints – None

Dismissed by the Division of Professional Regulation – None

Forwarded to the Office of the Attorney General – None

DISCIPLINE AND COMPLIANCE

Marieve O. Rodriguez – Compliance Update

Dr. McAllister reviewed the documents submitted by Dr. Rodriguez and stated that she is compliant.

CORRESPONDENCE

Infection Control Instructor

Dr. McAllister stated that the instructor questioned if she could receive credits for infection control for teaching an infection control course. Dr. McAllister questioned if she took prerequisite infection control course that qualified her for teaching an infection control course. Ms. Parker stated that an online course could be taken to meet the infection control requirement. Ms. Peer would call her to ask if there was a prerequisite course.

School Based Dental Care

The inquiry stated that a Delaware licensee would work with the Smile Program to schedule schools to provide basic dental care. The Board stated that it had no comment.

OTHER BUSINESS BEFORE THE BOARD

Next year's schedule would be prepared and distributed at the next scheduled meeting.

PUBLIC COMMENT

There was no public comment.

NEXT MEETING

The next meeting will be October 15, 2015 at 3:00 p.m. in Conference Room A located on the second floor of the Cannon building at 861 Silver Lake Boulevard, Dover, DE.

ADJOURNMENT

There being no further business to discuss, Ms. Parker made a motion, seconded by Dr. Welsh, to adjourn the meeting at 6:50p.m. By unanimous vote, the motion to adjourn carried.

Respectfully Submitted,



Flora Peer
Administrative Assistant II

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Board members and the public in supplementing their personal notes and recall for presentations.

DISCIPLINARY HEARING

PUBLIC HEARING

BOARD PRESENT:

Brain McAllister, DDS, Lucinda Bunting, DMD, Thomas A. Mercer, DMD, Sharon Welsh, DDS, Bruce Matthews, DDS, Carol Argo, RDH, June Ewing, Public Member, Nathaniel Gibbs, Public Member, Buffy Parker, RDH, Mary Trinkle, RDH, Rumiko Nelson, RDH

PRESIDING:

Brian McAllister, DDS, President

BOARD STAFF:

Flora Peer, Administrative Specialist II

BOARD COUNSEL:

Jennifer Singh, Deputy Attorney General

COUNSEL

Oliver Cleary, Deputy Attorney General Delaware Department of Justice

PUBLIC PRESENT:

Marcy Borofsky
Venetia A. Dover

COURT REPORTER:

Lorena J. Hartnett, Wilcox and Fetzer

PURPOSE:

Disciplinary Hearing

The hearing began at 3:20 p.m. The court reporter took verbatim testimony. DAG Jennifer Singh introduced herself for the record and stated the purpose of the hearing. The Board members introduced themselves for the record. Mr. Cleary waved the opening statement. Dr. Dover made an opening statement. The exhibits, which were introduced into evidence without objection, were made part of the record and considered by the Board. State's Exhibit 1: copies of x-rays of the patient's teeth dated April 4, 2012, May 6, 2014, and February 1, 2015. State's Exhibit 2: copies of x-rays of the patient's teeth dated May 11, 2011, October 18, 2011, May 11, 2012, and September 25, 2012. State's Exhibit 3: copies of x-rays of the patient's teeth dated May 11, 2012, May 23, 2012, January 28, 2013, and March 11, 2013. State's Exhibit 4: copies of x-rays of the patient's teeth dated November 4, 2013. State's Exhibit 5: witness statements from: Gabrielle Hilliard, Dental Program Director for the Department of Health and Social Services (DHSS)-Division of Medicaid and Medical Assistance (DMMA); and Dr. John Lenz, D.D.S., Board contact person. State's Exhibit 6: 18 x-rays of the patient's teeth dated April 2, 2014. State's Exhibit 7: list of dates of service for the minor patient and the treatment provided on those dates; additional x-rays; and DHSS prior authorizations for dental work. Licensee's Exhibit 1: account history of minor patient. In addition to the documentary evidence, the Board considered sworn live testimony. The State first called Dr. John Lenz to testify on its behalf. Dr. Lenz has been practicing for 45 years and was on the Board for six years, up until early 2015. He reviewed the State's exhibits prior to the hearing and determined that the crowns that Dr. Dover placed on teeth nine and ten of the minor patient did not fit properly, and there was decay present on tooth seven before Dr. Dover placed that crown. His overall opinion was that Dr. Dover's work "was of poor quality." Dr. Lenz confirmed to the Board that he did not see the patient, only the copies of the x-rays that were presented as exhibits. The State next called David Tetrault, an investigator with the Division of Professional Regulation to testify. Mr. Tetrault is a retired Vermont state police officer, who has conducted approximately 175

investigations for the Division of Professional Regulation. According to Mr. Tetrault, the complaint against Dr. Dover was filed by a nurse employed by DMMA who works with the dental program manager for Medicaid and Medicare. The minor patient was receiving Medicaid assistance for the dental services provided by Dr. Dover. The complaining nurse sent Mr. Tetrault x-rays of the patient's dental work as well as a statement from Drs. McClure and Nemczik, employees of DHSS, stating that Dr. Dover's care was substandard. Dr. McClure further stated that Dr. Dover's care did not meet the standard of care and was incompetent. As a result of these statements, Mr. Tetrault collected x-rays from Dr. Dover and Dr. Michael Wahl, the patient's subsequent treating dentist, and consulted with Dr. Lenz. He also asked Dr. Dover to prepare a response to the complaints against him.

Following the presentation of the State's case, Dr. Dover provided sworn testimony on his own behalf. Dr. Dover testified that he was faced with a difficult decision in regard to the minor patient as she was 14 years old, with a history of no-shows and non-compliance, yet had significant problems with several teeth. He stated that generally he is reticent to extract teeth or place crowns on a 14 year old. However, this patient had very little bone support for the teeth at issue, and tooth number nine was fractured to the gum line. He, therefore, elected to place crowns on the patient, despite her young age. Dr. Dover testified that had he known the patient's crown had come off, he would have provided the care to revise it, but he was not afforded the opportunity to do so. In regard to the State's allegation that Dr. Dover placed the crowns incompetently, Dr. Dover noted that looking to the x-ray of tooth six, subgingivally the crown was not adapted well, but this was only something he could see after the patient returned. Had he been given the opportunity, he could have referred the minor to a periodontist. His biggest concern was that he did not want to recommend tooth extraction on a 14 year old, as this is never a good option. Finally, Dr. Dover noted that the patient has returned to him for care, returning to his office in the summer of 2014 and treating with him as recently as July 10, 2015.

The Board went into deliberations at 4:35pm.

The Board discussed disciplinary measures. In determining the appropriate discipline, the Board considered that Dr. Dover was faced with a challenging patient with a history of non-compliance. Conversely, the Board considered that Dr. Dover knew what he was getting into when he chose to place crowns on the patient's teeth, and a dentist's standard of care cannot be overlooked due to a difficult patient.

The Board came out of deliberation at 5:23

Dr. McAllister made a motion, seconded by Dr. Mercer to issue a letter of reprimand and 15 CE credits to be completed in 12 months.

The hearing concluded at 5:25pm.